

2 ESSB 6166 - H COMM AMD  
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED 3/5/98

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are  
8 each reenacted and amended to read as follows:

9 (1) A person who is convicted of a violation of RCW 46.61.502 or  
10 46.61.504 and who has no prior offense within five years shall be  
11 punished as follows:

12 (a) In the case of a person whose alcohol concentration was less  
13 than 0.15, or for whom for reasons other than the person's refusal to  
14 take a test offered pursuant to RCW 46.20.308 there is no test result  
15 indicating the person's alcohol concentration:

16 (i) By imprisonment for not less than one day nor more than one  
17 year. Twenty-four consecutive hours of the imprisonment may not be  
18 suspended or deferred unless the court finds that the imposition of  
19 this mandatory minimum sentence would impose a substantial risk to the  
20 offender's physical or mental well-being. Whenever the mandatory  
21 minimum sentence is suspended or deferred, the court shall state in  
22 writing the reason for granting the suspension or deferral and the  
23 facts upon which the suspension or deferral is based; and

24 (ii) By a fine of not less than three hundred fifty dollars nor  
25 more than five thousand dollars. Three hundred fifty dollars of the  
26 fine may not be suspended or deferred unless the court finds the  
27 offender to be indigent; and

28 (iii) By suspension of the offender's license or permit to drive,  
29 or suspension of any nonresident privilege to drive, for a period of  
30 ninety days. The period of license, permit, or privilege suspension  
31 may not be suspended. The court shall notify the department of  
32 licensing of the conviction, and upon receiving notification of the  
33 conviction the department shall suspend the offender's license, permit,  
34 or privilege; or

35 (b) In the case of a person whose alcohol concentration was at  
36 least 0.15, or for whom by reason of the person's refusal to take a

1 test offered pursuant to RCW 46.20.308 there is no test result  
2 indicating the person's alcohol concentration:

3 (i) By imprisonment for not less than two days nor more than one  
4 year. Two consecutive days of the imprisonment may not be suspended or  
5 deferred unless the court finds that the imposition of this mandatory  
6 minimum sentence would impose a substantial risk to the offender's  
7 physical or mental well-being. Whenever the mandatory minimum sentence  
8 is suspended or deferred, the court shall state in writing the reason  
9 for granting the suspension or deferral and the facts upon which the  
10 suspension or deferral is based; and

11 (ii) By a fine of not less than five hundred dollars nor more than  
12 five thousand dollars. Five hundred dollars of the fine may not be  
13 suspended or deferred unless the court finds the offender to be  
14 indigent; and

15 (iii) By revocation of the offender's license or permit to drive,  
16 or suspension of any nonresident privilege to drive, for a period of  
17 one year. The period of license, permit, or privilege suspension may  
18 not be suspended. The court shall notify the department of licensing  
19 of the conviction, and upon receiving notification of the conviction  
20 the department shall suspend the offender's license, permit, or  
21 privilege.

22 (2) A person who is convicted of a violation of RCW 46.61.502 or  
23 46.61.504 and who has one prior offense within five years shall be  
24 punished as follows:

25 (a) In the case of a person whose alcohol concentration was less  
26 than 0.15, or for whom for reasons other than the person's refusal to  
27 take a test offered pursuant to RCW 46.20.308 there is no test result  
28 indicating the person's alcohol concentration:

29 (i) By imprisonment for not less than thirty days nor more than one  
30 year. Thirty days of the imprisonment may not be suspended or deferred  
31 unless the court finds that the imposition of this mandatory minimum  
32 sentence would impose a substantial risk to the offender's physical or  
33 mental well-being. Whenever the mandatory minimum sentence is  
34 suspended or deferred, the court shall state in writing the reason for  
35 granting the suspension or deferral and the facts upon which the  
36 suspension or deferral is based; and

37 (ii) By a fine of not less than five hundred dollars nor more than  
38 five thousand dollars. Five hundred dollars of the fine may not be

1 suspended or deferred unless the court finds the offender to be  
2 indigent; and

3 (iii) By revocation of the offender's license or permit to drive,  
4 or suspension of any nonresident privilege to drive, for a period of  
5 two years. The period of license, permit, or privilege revocation may  
6 not be suspended. The court shall notify the department of licensing  
7 of the conviction, and upon receiving notification of the conviction  
8 the department shall revoke the offender's license, permit, or  
9 privilege; or

10 (b) In the case of a person whose alcohol concentration was at  
11 least 0.15, or for whom by reason of the person's refusal to take a  
12 test offered pursuant to RCW 46.20.308 there is no test result  
13 indicating the person's alcohol concentration:

14 (i) By imprisonment for not less than forty-five days nor more than  
15 one year. Forty-five days of the imprisonment may not be suspended or  
16 deferred unless the court finds that the imposition of this mandatory  
17 minimum sentence would impose a substantial risk to the offender's  
18 physical or mental well-being. Whenever the mandatory minimum sentence  
19 is suspended or deferred, the court shall state in writing the reason  
20 for granting the suspension or deferral and the facts upon which the  
21 suspension or deferral is based; and

22 (ii) By a fine of not less than seven hundred fifty dollars nor  
23 more than five thousand dollars. Seven hundred fifty dollars of the  
24 fine may not be suspended or deferred unless the court finds the  
25 offender to be indigent; and

26 (iii) By revocation of the offender's license or permit to drive,  
27 or suspension of any nonresident privilege to drive, for a period of  
28 nine hundred days. The period of license, permit, or privilege  
29 revocation may not be suspended. The court shall notify the department  
30 of licensing of the conviction, and upon receiving notification of the  
31 conviction the department shall revoke the offender's license, permit,  
32 or privilege.

33 (3) A person who is convicted of a violation of RCW 46.61.502 or  
34 46.61.504 and who has two or more prior offenses within five years  
35 shall be punished as follows:

36 (a) In the case of a person whose alcohol concentration was less  
37 than 0.15, or for whom for reasons other than the person's refusal to  
38 take a test offered pursuant to RCW 46.20.308 there is no test result  
39 indicating the person's alcohol concentration:

1 (i) By imprisonment for not less than ninety days nor more than one  
2 year. Ninety days of the imprisonment may not be suspended or deferred  
3 unless the court finds that the imposition of this mandatory minimum  
4 sentence would impose a substantial risk to the offender's physical or  
5 mental well-being. Whenever the mandatory minimum sentence is  
6 suspended or deferred, the court shall state in writing the reason for  
7 granting the suspension or deferral and the facts upon which the  
8 suspension or deferral is based; and

9 (ii) By a fine of not less than one thousand dollars nor more than  
10 five thousand dollars. One thousand dollars of the fine may not be  
11 suspended or deferred unless the court finds the offender to be  
12 indigent; and

13 (iii) By revocation of the offender's license or permit to drive,  
14 or suspension of any nonresident privilege to drive, for a period of  
15 three years. The period of license, permit, or privilege revocation  
16 may not be suspended. The court shall notify the department of  
17 licensing of the conviction, and upon receiving notification of the  
18 conviction the department shall revoke the offender's license, permit,  
19 or privilege; or

20 (b) In the case of a person whose alcohol concentration was at  
21 least 0.15, or for whom by reason of the person's refusal to take a  
22 test offered pursuant to RCW 46.20.308 there is no test result  
23 indicating the person's alcohol concentration:

24 (i) By imprisonment for not less than one hundred twenty days nor  
25 more than one year. One hundred twenty days of the imprisonment may  
26 not be suspended or deferred unless the court finds that the imposition  
27 of this mandatory minimum sentence would impose a substantial risk to  
28 the offender's physical or mental well-being. Whenever the mandatory  
29 minimum sentence is suspended or deferred, the court shall state in  
30 writing the reason for granting the suspension or deferral and the  
31 facts upon which the suspension or deferral is based; and

32 (ii) By a fine of not less than one thousand five hundred dollars  
33 nor more than five thousand dollars. One thousand five hundred dollars  
34 of the fine may not be suspended or deferred unless the court finds the  
35 offender to be indigent; and

36 (iii) By revocation of the offender's license or permit to drive,  
37 or suspension of any nonresident privilege to drive, for a period of  
38 four years. The period of license, permit, or privilege revocation may  
39 not be suspended. The court shall notify the department of licensing

1 of the conviction, and upon receiving notification of the conviction  
2 the department shall revoke the offender's license, permit, or  
3 privilege.

4 (4) In exercising its discretion in setting penalties within the  
5 limits allowed by this section, the court shall particularly consider  
6 whether the person's driving at the time of the offense was responsible  
7 for injury or damage to another or another's property.

8 (5) An offender punishable under this section is subject to the  
9 alcohol assessment and treatment provisions of RCW 46.61.5056.

10 (6) After expiration of any period of suspension or revocation of  
11 the offender's license, permit, or privilege to drive required by this  
12 section, the department shall place the offender's driving privilege in  
13 probationary status pursuant to RCW 46.20.355.

14 (7)(a) In addition to any nonsuspendable and nondeferrable jail  
15 sentence required by this section, whenever the court imposes less than  
16 one year in jail, the court shall also suspend but shall not defer a  
17 period of confinement for a period not exceeding two years. The court  
18 shall impose conditions of probation that include: (i) Not driving a  
19 motor vehicle within this state without a valid license to drive and  
20 proof of financial responsibility for the future; (ii) not driving a  
21 motor vehicle within this state while having an alcohol concentration  
22 of 0.08 or more within two hours after driving; and (iii) not refusing  
23 to submit to a test of his or her breath or blood to determine alcohol  
24 concentration upon request of a law enforcement officer who has  
25 reasonable grounds to believe the person was driving or was in actual  
26 physical control of a motor vehicle within this state while under the  
27 influence of intoxicating liquor. The court may impose conditions of  
28 probation that include nonrepetition, installation of an ignition  
29 interlock or other biological or technical device on the probationer's  
30 motor vehicle, alcohol or drug treatment, supervised probation, or  
31 other conditions that may be appropriate. The sentence may be imposed  
32 in whole or in part upon violation of a condition of probation during  
33 the suspension period.

34 (b) For each violation of mandatory conditions of probation under  
35 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall  
36 order the convicted person to be confined for thirty days, which shall  
37 not be suspended or deferred.

38 (c) For each incident involving a violation of a mandatory  
39 condition of probation imposed under this subsection, the license,

1 permit, or privilege to drive of the person shall be suspended by the  
2 court for thirty days or, if such license, permit, or privilege to  
3 drive already is suspended, revoked, or denied at the time the finding  
4 of probation violation is made, the suspension, revocation, or denial  
5 then in effect shall be extended by thirty days. The court shall  
6 notify the department of any suspension, revocation, or denial or any  
7 extension of a suspension, revocation, or denial imposed under this  
8 subsection.

9 (8)(a) A "prior offense" means any of the following:

10 (i) A conviction for a violation of RCW 46.61.502 or an equivalent  
11 local ordinance;

12 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent  
13 local ordinance;

14 (iii) A conviction for a violation of RCW 46.61.520 committed while  
15 under the influence of intoxicating liquor or any drug;

16 (iv) A conviction for a violation of RCW 46.61.522 committed while  
17 under the influence of intoxicating liquor or any drug;

18 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or  
19 9A.36.050 or an equivalent local ordinance, if the conviction is the  
20 result of a charge that was originally filed as a violation of RCW  
21 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
22 46.61.520 or 46.61.522;

23 (vi) An out-of-state conviction for a violation that would have  
24 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this  
25 subsection if committed in this state;

26 (vii) A deferred prosecution under chapter 10.05 RCW granted in a  
27 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
28 equivalent local ordinance; or

29 (viii) A deferred prosecution under chapter 10.05 RCW granted in a  
30 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
31 ordinance, if the charge under which the deferred prosecution was  
32 granted was originally filed as a violation of RCW 46.61.502 or  
33 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
34 46.61.522.

35 (b) "Within five years" means that the arrest for a prior offense  
36 occurred within five years of the arrest for the current offense.

37 **Sec. 2.** RCW 46.61.520 and 1996 c 199 s 7 are each amended to read  
38 as follows:

1 (1) When the death of any person ensues within three years as a  
 2 proximate result of injury proximately caused by the driving of any  
 3 vehicle by any person, the driver is guilty of vehicular homicide if  
 4 the driver was operating a motor vehicle:

5 (a) While under the influence of intoxicating liquor or any drug,  
 6 as defined by RCW 46.61.502; or

7 (b) In a reckless manner; or

8 (c) With disregard for the safety of others.

9 (2) Vehicular homicide is a class A felony punishable under chapter  
 10 9A.20 RCW, except that, for a conviction under subsection (1)(a) of  
 11 this section, an additional two years shall be added to the sentence  
 12 for each prior offense as defined in RCW 46.61.5055.

13 **Sec. 3.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are  
 14 each reenacted and amended to read as follows:

15 (1) TABLE 1

16 Sentencing Grid

17 SERIOUSNESS

18 SCORE

OFFENDER SCORE

19  
 20 0 1 2 3 4 5 6 7 8 9 or  
 21 more

22 XV Life Sentence without Parole/Death Penalty

23  
 24 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y  
 25 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-  
 26 320 333 347 361 374 388 416 450 493 548

27  
 28 XIII 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
 29 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
 30 220 234 244 254 265 275 295 316 357 397

31  
 32 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
 33 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
 34 123 136 147 160 171 184 216 236 277 318

1	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
2		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
3		102	114	125	136	147	158	194	211	245	280
4											
5	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
6		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
7		68	75	82	89	96	102	130	144	171	198
8											
9	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
10		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
11		41	48	54	61	68	75	102	116	144	171
12											
13	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
14		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
15		27	34	41	48	54	61	89	102	116	144
16											
17	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
18		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
19		20	27	34	41	48	54	75	89	102	116
20											
21	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
22		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
23		14	20	27	34	41	48	61	75	89	102
24											
25	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
26		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
27		12	14	17	20	29	43	54	68	82	96
28											
29	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
30		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
31		9	12	14	17	20	29	43	57	70	84
32											
33	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
34		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
35		3	8	12	12	16	22	29	43	57	68
36											
37	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
38		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
39		Days	6	9	12	14	18	22	29	43	57

1  
2  
3  
4  
5

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I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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6 NOTE: Numbers in the first horizontal row of each seriousness category  
7 represent sentencing midpoints in years(y) and months(m). Numbers in  
8 the second and third rows represent presumptive sentencing ranges in  
9 months, or in days if so designated. 12+ equals one year and one day.

10 (2) For persons convicted of the anticipatory offenses of criminal  
11 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
12 presumptive sentence is determined by locating the sentencing grid  
13 sentence range defined by the appropriate offender score and the  
14 seriousness level of the completed crime, and multiplying the range by  
15 75 percent.

16 (3) The following additional times shall be added to the  
17 presumptive sentence for felony crimes committed after July 23, 1995,  
18 if the offender or an accomplice was armed with a firearm as defined in  
19 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
20 listed in this subsection as eligible for any firearm enhancements  
21 based on the classification of the completed felony crime. If the  
22 offender or an accomplice was armed with a firearm as defined in RCW  
23 9.41.010 and the offender is being sentenced for an anticipatory  
24 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
25 this subsection as eligible for any firearm enhancements, the following  
26 additional times shall be added to the presumptive sentence determined  
27 under subsection (2) of this section based on the felony crime of  
28 conviction as classified under RCW 9A.28.020:

29 (a) Five years for any felony defined under any law as a class A  
30 felony or with a maximum sentence of at least twenty years, or both,  
31 and not covered under (f) of this subsection.

32 (b) Three years for any felony defined under any law as a class B  
33 felony or with a maximum sentence of ten years, or both, and not  
34 covered under (f) of this subsection.

35 (c) Eighteen months for any felony defined under any law as a  
36 class C felony or with a maximum sentence of five years, or both, and  
37 not covered under (f) of this subsection.

1 (d) If the offender is being sentenced for any firearm  
2 enhancements under (a), (b), and/or (c) of this subsection and the  
3 offender has previously been sentenced for any deadly weapon  
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
5 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
6 both, any and all firearm enhancements under this subsection shall be  
7 twice the amount of the enhancement listed.

8 (e) Notwithstanding any other provision of law, any and all  
9 firearm enhancements under this section are mandatory, shall be served  
10 in total confinement, and shall not run concurrently with any other  
11 sentencing provisions.

12 (f) The firearm enhancements in this section shall apply to all  
13 felony crimes except the following: Possession of a machine gun,  
14 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
15 unlawful possession of a firearm in the first and second degree, and  
16 use of a machine gun in a felony.

17 (g) If the presumptive sentence under this section exceeds the  
18 statutory maximum for the offense, the statutory maximum sentence shall  
19 be the presumptive sentence unless the offender is a persistent  
20 offender as defined in RCW 9.94A.030.

21 (4) The following additional times shall be added to the  
22 presumptive sentence for felony crimes committed after July 23, 1995,  
23 if the offender or an accomplice was armed with a deadly weapon as  
24 defined in this chapter other than a firearm as defined in RCW 9.41.010  
25 and the offender is being sentenced for one of the crimes listed in  
26 this subsection as eligible for any deadly weapon enhancements based on  
27 the classification of the completed felony crime. If the offender or  
28 an accomplice was armed with a deadly weapon other than a firearm as  
29 defined in RCW 9.41.010 and the offender is being sentenced for an  
30 anticipatory offense under chapter 9A.28 RCW to commit one of the  
31 crimes listed in this subsection as eligible for any deadly weapon  
32 enhancements, the following additional times shall be added to the  
33 presumptive sentence determined under subsection (2) of this section  
34 based on the felony crime of conviction as classified under RCW  
35 9A.28.020:

36 (a) Two years for any felony defined under any law as a class A  
37 felony or with a maximum sentence of at least twenty years, or both,  
38 and not covered under (f) of this subsection.

1 (b) One year for any felony defined under any law as a class B  
2 felony or with a maximum sentence of ten years, or both, and not  
3 covered under (f) of this subsection.

4 (c) Six months for any felony defined under any law as a class C  
5 felony or with a maximum sentence of five years, or both, and not  
6 covered under (f) of this subsection.

7 (d) If the offender is being sentenced under (a), (b), and/or (c)  
8 of this subsection for any deadly weapon enhancements and the offender  
9 has previously been sentenced for any deadly weapon enhancements after  
10 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
11 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
12 all deadly weapon enhancements under this subsection shall be twice the  
13 amount of the enhancement listed.

14 (e) Notwithstanding any other provision of law, any and all deadly  
15 weapon enhancements under this section are mandatory, shall be served  
16 in total confinement, and shall not run concurrently with any other  
17 sentencing provisions.

18 (f) The deadly weapon enhancements in this section shall apply to  
19 all felony crimes except the following: Possession of a machine gun,  
20 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
21 unlawful possession of a firearm in the first and second degree, and  
22 use of a machine gun in a felony.

23 (g) If the presumptive sentence under this section exceeds the  
24 statutory maximum for the offense, the statutory maximum sentence shall  
25 be the presumptive sentence unless the offender is a persistent  
26 offender as defined in RCW 9.94A.030.

27 (5) The following additional times shall be added to the  
28 presumptive sentence if the offender or an accomplice committed the  
29 offense while in a county jail or state correctional facility as that  
30 term is defined in this chapter and the offender is being sentenced for  
31 one of the crimes listed in this subsection. If the offender or an  
32 accomplice committed one of the crimes listed in this subsection while  
33 in a county jail or state correctional facility as that term is defined  
34 in this chapter, and the offender is being sentenced for an  
35 anticipatory offense under chapter 9A.28 RCW to commit one of the  
36 crimes listed in this subsection, the following additional times shall  
37 be added to the presumptive sentence determined under subsection (2) of  
38 this section:

1 (a) Eighteen months for offenses committed under RCW  
2 69.50.401(a)(1) (i) or (ii) or 69.50.410;

3 (b) Fifteen months for offenses committed under RCW  
4 69.50.401(a)(1) (iii), (iv), and (v);

5 (c) Twelve months for offenses committed under RCW 69.50.401(d).

6 For the purposes of this subsection, all of the real property of  
7 a state correctional facility or county jail shall be deemed to be part  
8 of that facility or county jail.

9 (6) An additional twenty-four months shall be added to the  
10 presumptive sentence for any ranked offense involving a violation of  
11 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

12 (7) An additional two years shall be added to the presumptive  
13 sentence for vehicular homicide committed while under the influence of  
14 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
15 prior offense as defined in RCW 46.61.5055.

16 **Sec. 4.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read  
17 as follows:

18 The offender score is measured on the horizontal axis of the  
19 sentencing grid. The offender score rules are as follows:

20 The offender score is the sum of points accrued under this section  
21 rounded down to the nearest whole number.

22 (1) A prior conviction is a conviction which exists before the  
23 date of sentencing for the offense for which the offender score is  
24 being computed. Convictions entered or sentenced on the same date as  
25 the conviction for which the offender score is being computed shall be  
26 deemed "other current offenses" within the meaning of RCW 9.94A.400.

27 (2) Class A and sex prior felony convictions shall always be  
28 included in the offender score. Class B prior felony convictions other  
29 than sex offenses shall not be included in the offender score, if since  
30 the last date of release from confinement (including full-time  
31 residential treatment) pursuant to a felony conviction, if any, or  
32 entry of judgment and sentence, the offender had spent ten consecutive  
33 years in the community without committing any crime that subsequently  
34 results in a conviction. Class C prior felony convictions other than  
35 sex offenses shall not be included in the offender score if, since the  
36 last date of release from confinement (including full-time residential  
37 treatment) pursuant to a felony conviction, if any, or entry of  
38 judgment and sentence, the offender had spent five consecutive years in

1 the community without committing any crime that subsequently results in  
2 a conviction. Serious traffic convictions shall not be included in the  
3 offender score if, since the last date of release from confinement  
4 (including full-time residential treatment) pursuant to a felony  
5 conviction, if any, or entry of judgment and sentence, the offender  
6 spent five years in the community without committing any crime that  
7 subsequently results in a conviction. This subsection applies to both  
8 adult and juvenile prior convictions.

9 (3) Out-of-state convictions for offenses shall be classified  
10 according to the comparable offense definitions and sentences provided  
11 by Washington law. Federal convictions for offenses shall be  
12 classified according to the comparable offense definitions and  
13 sentences provided by Washington law. If there is no clearly  
14 comparable offense under Washington law or the offense is one that is  
15 usually considered subject to exclusive federal jurisdiction, the  
16 offense shall be scored as a class C felony equivalent if it was a  
17 felony under the relevant federal statute.

18 (4) Score prior convictions for felony anticipatory offenses  
19 (attempts, criminal solicitations, and criminal conspiracies) the same  
20 as if they were convictions for completed offenses.

21 (5)(a) In the case of multiple prior convictions, for the purpose  
22 of computing the offender score, count all convictions separately,  
23 except:

24 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to  
25 encompass the same criminal conduct, shall be counted as one offense,  
26 the offense that yields the highest offender score. The current  
27 sentencing court shall determine with respect to other prior adult  
28 offenses for which sentences were served concurrently or prior juvenile  
29 offenses for which sentences were served consecutively, whether those  
30 offenses shall be counted as one offense or as separate offenses using  
31 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and  
32 if the court finds that they shall be counted as one offense, then the  
33 offense that yields the highest offender score shall be used. The  
34 current sentencing court may presume that such other prior offenses  
35 were not the same criminal conduct from sentences imposed on separate  
36 dates, or in separate counties or jurisdictions, or in separate  
37 complaints, indictments, or informations;

38 (ii) In the case of multiple prior convictions for offenses  
39 committed before July 1, 1986, for the purpose of computing the

1 offender score, count all adult convictions served concurrently as one  
2 offense, and count all juvenile convictions entered on the same date as  
3 one offense. Use the conviction for the offense that yields the  
4 highest offender score.

5 (b) As used in this subsection (5), "served concurrently" means  
6 that: (i) The latter sentence was imposed with specific reference to  
7 the former; (ii) the concurrent relationship of the sentences was  
8 judicially imposed; and (iii) the concurrent timing of the sentences  
9 was not the result of a probation or parole revocation on the former  
10 offense.

11 (6) If the present conviction is one of the anticipatory offenses  
12 of criminal attempt, solicitation, or conspiracy, count each prior  
13 conviction as if the present conviction were for a completed offense.

14 (7) If the present conviction is for a nonviolent offense and not  
15 covered by subsection (11) or (12) of this section, count one point for  
16 each adult prior felony conviction and one point for each juvenile  
17 prior violent felony conviction and 1/2 point for each juvenile prior  
18 nonviolent felony conviction.

19 (8) If the present conviction is for a violent offense and not  
20 covered in subsection (9), (10), (11), or (12) of this section, count  
21 two points for each prior adult and juvenile violent felony conviction,  
22 one point for each prior adult nonviolent felony conviction, and 1/2  
23 point for each prior juvenile nonviolent felony conviction.

24 (9) If the present conviction is for Murder 1 or 2, Assault 1,  
25 Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count  
26 three points for prior adult and juvenile convictions for crimes in  
27 these categories, two points for each prior adult and juvenile violent  
28 conviction (not already counted), one point for each prior adult  
29 nonviolent felony conviction, and 1/2 point for each prior juvenile  
30 nonviolent felony conviction.

31 (10) If the present conviction is for Burglary 1, count prior  
32 convictions as in subsection (8) of this section; however count two  
33 points for each prior adult Burglary 2 or residential burglary  
34 conviction, and one point for each prior juvenile Burglary 2 or  
35 residential burglary conviction.

36 (11) If the present conviction is for a felony traffic offense  
37 count two points for each adult or juvenile prior conviction for  
38 Vehicular Homicide or Vehicular Assault; for each felony offense or  
39 serious traffic offense, count one point for each adult and 1/2 point

1 for each juvenile prior conviction. This subsection shall not apply  
2 when additional time is added to a sentence pursuant to RCW  
3 46.61.520(2).

4 (12) If the present conviction is for a drug offense count three  
5 points for each adult prior felony drug offense conviction and two  
6 points for each juvenile drug offense. All other adult and juvenile  
7 felonies are scored as in subsection (8) of this section if the current  
8 drug offense is violent, or as in subsection (7) of this section if the  
9 current drug offense is nonviolent.

10 (13) If the present conviction is for Willful Failure to Return  
11 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
12 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
13 72.09.310, count only prior escape convictions in the offender score.  
14 Count adult prior escape convictions as one point and juvenile prior  
15 escape convictions as 1/2 point.

16 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or  
17 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
18 juvenile prior convictions as 1/2 point.

19 (15) If the present conviction is for Burglary 2 or residential  
20 burglary, count priors as in subsection (7) of this section; however,  
21 count two points for each adult and juvenile prior Burglary 1  
22 conviction, two points for each adult prior Burglary 2 or residential  
23 burglary conviction, and one point for each juvenile prior Burglary 2  
24 or residential burglary conviction.

25 (16) If the present conviction is for a sex offense, count priors  
26 as in subsections (7) through (15) of this section; however count three  
27 points for each adult and juvenile prior sex offense conviction.

28 (17) If the present conviction is for an offense committed while  
29 the offender was under community placement, add one point.

30 NEW SECTION. Sec. 5. A new section is added to chapter 46.61 RCW  
31 to read as follows:

32 (1) Immediately before the court defers prosecution under RCW  
33 10.05.020, dismisses a charge, or orders a sentence for any offense  
34 listed in subsection (2) of this section, the court and prosecutor  
35 shall verify the defendant's criminal history and driving record. The  
36 order shall include specific findings as to the criminal history and  
37 driving record. For purposes of this section, the criminal history  
38 shall include all previous convictions and orders of deferred

1 prosecution, as reported through the judicial information system or  
2 otherwise available to the court or prosecutor, current to within the  
3 period specified in subsection (3) of this section before the date of  
4 the order. For purposes of this section, the driving record shall  
5 include all information reported to the court by the department of  
6 licensing.

7 (2) The offenses to which this section applies are violations of:  
8 (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504  
9 or an equivalent local ordinance; (c) RCW 46.61.520 committed while  
10 under the influence of intoxicating liquor or any drug; (d) RCW  
11 46.61.522 committed while under the influence of intoxicating liquor or  
12 any drug; and (e) RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
13 equivalent local ordinance, if the conviction is the result of a charge  
14 that was originally filed as a violation of RCW 46.61.502 or 46.61.504  
15 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

16 (3) The periods applicable to previous convictions and orders of  
17 deferred prosecution are: (a) One working day, in the case of previous  
18 actions of courts that fully participate in the state judicial  
19 information system; and (b) seven calendar days, in the case of  
20 previous actions of courts that do not fully participate in the  
21 judicial information system. For purposes of this subsection, "fully  
22 participate" means regularly providing records to and receiving records  
23 from the system by electronic means on a daily basis.

24 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
25 this act, referencing this act by bill or chapter number, is not  
26 provided by June 30, 1998, in the omnibus appropriations act, this act  
27 is null and void.

28 NEW SECTION. **Sec. 7.** This act takes effect January 1, 1999."

29 Correct the title.

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